

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of	)	
	)	
VONAGE HOLDINGS COPORATION	)	WC Docket No. 03-211
Petition for Declaratory Ruling	)	
	)	

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**COMMENTS OF  
METROPOLITAN 911 BOARD**  
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## INTRODUCTION

The Metropolitan 911 Board hereby submits the following comments in response to the Commission's *Public Notice*, DA 03-2952, released September 26, 2003, in WC Docket 03-211, seeking public comments regarding a Petition for Declaratory Ruling filed on September 22, 2003, by Vonage Holdings Corporation ("Vonage"). As discussed below, the Metropolitan 911 Board opposes the Vonage Petition. Vonage should be required to abide by relevant state law and regulation of 911 services, and the State's authority in this regard should not be pre-empted by federal law. These comments will focus on the serious public safety issues raised by Vonage's operations and the need for appropriate protections regarding 911 calls delivered through Voice Over Internet Protocol (VoIP) service. We hope that the FCC will address this important public safety issue in this and other appropriate proceedings.

The Metropolitan 911 Board is a joint powers association of the seven counties that comprise the Minneapolis/St. Paul metropolitan area, including the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington. The Metropolitan 911 Board oversees the 911 network and database for the 2.5 million residents of the seven-county area.

As required by Minn. Stat. §403.01, *et seq.* the Metropolitan 911 Board is responsible for the seven county 911 Plan stipulating how 911 is to be networked and the 911 data managed in the seven counties and current 26 public safety answering points within those seven counties.

The Board has established a Technical Operations Committee, composed of managers of representative public safety agencies within the seven counties to advise them on 911 system

matters, issues of relevance that affect public safety, system deficiencies, and methods of operation that impact both the 911 call answering function and the efficient use of the telecommunications network.

On September 11, 2003, the Minnesota Public Utilities Commission (MPUC) issued an order requiring Vonage to comply with state laws governing providers of telephone service, including relevant 911 laws.<sup>1</sup> On September 22, 2003, Vonage filed a petition requesting that the FCC preempt the MPUC order, claiming that it is a provider of information services, and not a telecommunications service provider under Title II of the Communications Act of 1934. The *Public Notice* requests comments on the Vonage Petition. More recently, on October 16, 2003, the United States District Court for the District of Minnesota granted an injunction to prevent enforcement of the MPUC order.<sup>2</sup>

The Metropolitan 911 Board participated before the MPUC on this matter and supports its initial decision because of our concern regarding the impact of Vonage's proposed service on 911 operations. In particular, under Vonage's proposed plan to route 911 calls, Vonage end users dialing 911 may be routed to the wrong PSAP, could reach unattended administrative numbers in some cases, and will not have the benefit of automatic location information, a standard function of wireline telephone services in Minnesota. This would eliminate two decades of advancements through "Enhanced 911 (or E911)" intended to ensure that emergency calls are routed

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<sup>1</sup> *In the Matter of the Complaint of the Minnesota Department of Commerce Against Vonage Holdings Corp Regarding Lack of Authority to Operate in Minnesota*, Docket No. P-6214/C-03-108 (Minn. Pub. Utils. Commission Sept. 11, 2003).

<sup>2</sup> *Vonage Holdings Corporation v. The Minnesota Public Utilities Commission*, Civil No. 03-5287 (D.MN Oct. 16, 2003).

automatically to the correct PSAP, and that emergency call takers can quickly and accurately ascertain the exact location of an emergency.

The FCC has long recognized the importance of E911. For wireless telephone calls, which now account for as much as 50% of 911 calls, the FCC has adopted and enforced rules to require wireless providers to install E911 capability. Our concern is that VoIP, while now a small segment of the telephone industry, is likely to grow dramatically and become a major source of 911 calls, similar to the explosive growth of wireless service. Now is the time to address this VoIP/911 issue, before systems, equipment, and procedures become imbedded and difficult to upgrade.

The Metropolitan 911 Board's experience with Vonage provides an unfortunate example of what can happen in the absence of effective 911 regulation for VoIP service. Vonage has been holding itself out as providing local phone service in Minnesota for several months, but has failed to submit a 911 plan for review and approval by the Metropolitan 911 Board as required by Minnesota law.

Vonage's apparent solution for 911 service is to obtain the administrative telephone numbers associated with each of the Public Safety Answering Points (PSAPs) in the Twin Cities region, and route 911 emergency calls to those numbers. At least initially, Vonage did not contact the Metropolitan 911 Board nor, to our knowledge, anyone at the PSAPs to determine whether this poses a public safety risk.

In fact, there is a substantial public safety risk if a VoIP provider is allowed to route 911 calls to PSAP administrative numbers without the knowledge or approval of the public safety agency.

For example, some of the administrative numbers associated with PSAPs are not emergency numbers, are not answered on a priority basis, are not staffed 24 hours a day and may go into voice mail if nobody answers. Moreover, those answering these administrative numbers may not be trained to deal with emergency calls.

The metropolitan 911 system in the Twin City area is an E911 system that requires service providers to automatically send the actual ANI (Automatic Number Identification) and ALI (Automatic Location Information) of the calling party. This E911 system and underlying legal requirements ensures that if the caller is unable to communicate clearly during the emergency, the 911 dispatcher can still summon emergency personnel to the correct location. The proposed Vonage solution does not provide any of these E911 features. Without this information, determination of the appropriate emergency response agency in the area of the caller's location may be difficult to obtain.

Absent E911, a 911 caller must know their exact location and be able to convey that information to the 911 call taker. Even if they know their location, they may be physically unable to provide that information due to an injury, or the confusion and stress of the situation. Calls from crimes in progress pose particular problems because of potential hostage situations. In addition, 911 callers often provide location information that is either unclear or incorrect. Without E911, the PSAP has no way of verifying that information, which can lead to delayed response because emergency responders are dispatched to the wrong location.

In addition, Vonage's proposed method of routing calls places additional burdens on PSAPs. Staffing levels and priority systems would be significantly impacted with increased costs to the PSAP. Any specialized handling of a small number of 911 calls which is inconsistent with

routine operations increases the potential of error and liability. Calls which do not provide the complete information necessary to initiate an emergency response to the caller's request, or that require the 911 call taker to spend more time with the caller trying to determine their location or to interpret verbal cues from the caller will increase the need for additional PSAP staff. Despite these additional burdens, VoIP callers (absent regulatory treatment) do not pay 911 fees, forcing other 911 customers to bear the financial responsibility of funding 911 services. This will become more acute as the VoIP services continue to grow in popularity among the public as primary voice communication service.

Therefore, the Metropolitan 911 Board urges the Federal Communications Commission to take appropriate action to ensure that all 911 calls, including those made on telephones connected through VoIP, can be delivered with location information and answered in an effective and efficient manner.

Respectfully submitted,

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